IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 3003 OF 2007

Hamid Nanu Kurushi.. ....Petitioner.
V/s
Prakash Harichandra Patil ....Respondent.

Mr.Rajesh More, Adv. For the petitioner.

CORAM: A.P.DESHPANDE, J.
27/7/07

PC:

An order passed by the trial Court refusing to appoint Commissioner for measurement of the suit land has given rise to the filing of this writ petition. The trial Court in its discretion has found that it is not necessary to appoint the Court Commissioner for measurement. The suit is for removal of alleged encroachment after demolition of the structure. The petitioner has already prepared a map and placed on record. Taking over all view of the matter the trial Court has rejected the application. Perused the order. Same does not call for interference. At this stage I am not inclined to interfere with the order. Learned counsel for the petitioner submits that all questions raised in writ petition be left open to be raised by the petitioner in a regular civil appeal if and in case the suit filed by the petitioner is dismissed and the petitioner is required to file an appeal. Hence though writ petition is summarily dismissed, the questions raised in this petition are left open to be agitated in the regular civil appeal.

27.7.07